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10/645,666

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David A. Holmes

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EXAMINER

SWENSON, BRIAN L

ART UNIT

PAPER NUMBER

3618

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|----------------------------------|--|
| Office Action Summary | Application No. 10/645,666 | Applicant(s) HOLMES, DAVID A. | |
| | Examiner Brian Swenson | Art Unit 3618 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 17-21, 23 and 24 is/are rejected.
- 7) ☒ Claim(s) 16 and 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>8/22/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings filed on 22 August 2005 are objected to for being informal, specifically:

- a. The lines and numbers are not uniformly thick and well defined (see also 37 CFR 1.84(l));
- b. In Figure 11, the solid black area is not permitted (see also 37 CFR 1.84(m));

Formal drawings will be required at the time of allowance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 6 and 7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In line 2 of claim 6 it is unclear what "upon being quickly rotated" encompasses, the examiner suggests removing the work "quickly".

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 11 recites the limitation "the wheel leg" in (line 6 of claims 1 and 11). There is insufficient antecedent basis for these limitations in the claims. Does applicant mean "wheel support" which has antecedent basis?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 14 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,164,671 issued to Darling, III.

Darling, III teaches in Figures 1-31 and respective portions of the specification of a: stretcher carrier comprising: a frame (Figure 6) arranged to support a stretcher (Figure 12); an axle (32) received in axle holes (25; labeled in Figure 3) in the frame; wheels (30) rotatably mounted on the axle; and at least one roll pin (36) extending through the axle and arranged to prevent one of said wheels from rubbing against the frame, the roll pin maintains the wheels in a perpendicular position preventing the wheels from rubbing against the frame.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-2, 6, 8, 10-11, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,375,200 issued to Harter.

Harter teaches in Figures 1-11 and respective portions of the specification of a stretcher carrier comprising: a stretcher platform (16) for supporting a stretcher (22) in a substantially horizontal position (Figure 5);

a wheel support (unlabeled shown in Figure 2) connected to the stretcher platform; at least one wheel (42,43) rotatably mounted to the wheel support;

a foot prop support (43) pivotally attached to the stretcher platform;

a foot prop (portion 18 of the carrier) pivotally attached to the foot prop support, wherein the foot prop is pivotable between a downward, extended position for supporting the stretcher carrier on a ground surface (Figure 6), and an upward position (see Figures 1, 3, 4 or 7) in which the foot prop is pivoted upward and away from the ground surface for transporting the stretcher on the stretcher carrier.

Harter shows in Figure 2 the foot prop support is attached slightly below the wheel support. It would have been obvious to one having ordinary skill in the art at the time of invention locate the foot prop support at the intersection of the wheel support

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and cross beams (21). One would be motivated to locate the foot prop support at the intersection of the wheel support and cross beams to concentrate the forces at a single point providing the advantage of lowering the bending stresses within the stretcher carrier.

In regards to claim 2, Harter teaches of a knob (43) for releasing the foot prop from the downward, extended position to the upward position upon being pushed. It would have been obvious to one having ordinary skill in the art at the time of invention that the knob could be rotated by a foot engaging projections (97) of the knob, one would be motivated to rotate the knob with the foot to prevent the user from bending over reducing stress on the user's back.

In regards to claim 6, Harter teaches the foot prop is capable of being moved from the upward position to the extended, downward position upon being rotated from the upward position past the extended, downward position and released after passing the extended, downward position.

In regards to claim 8, the foot prop support is a knob (43) releasibly secured to the stretcher carrier.

In regards to claim 10, Harter shows the carrier is arranged to be converted into a collapsed storage configuration (Figure 7) and teaches the wheels are able to be removed (Col. 4, lines 61+) and placed parallel to the stretcher.

6. Claims 17-18, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Darling, III, as applied to claim 14 above.

Darling, III teaches of an annular stop (see abutment 32b) disposed on the axle to prevent the wheels from rubbing against the frame. Darling, III does not show an indicator to show the position of the pin (36). It would have been obvious to one having ordinary skill in the art at the time of invention to provide an indicator to show the position of the pin (36). One would be motivated to provide an indicator, such as a color marker in line with pin hole for pin (36) to show the user the location for pin hole. In regards to claim 18, Darling, III teaches of a knob (28) for forming a clamp with groove (27) that prevents rotation and sliding of the axle relative to the frame. It would have been obvious to one having ordinary skill in the art at the time of invention to replace the knob and clamp with a pin that prevents rotation and sliding of the axle, as both are well known means for fixing the position of a shaft in the mechanical arts.

7. Claims 15, 19-21 and 23-24, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Darling, III, as applied to claim 14 above and in view of U.S. Patent No. 6,725,872 issued to Kindell et al.

Darling, III does not teach of the retaining pins attached to a lanyard attached to a bungee cord placed within the axle to retain the pins relative to the axle.

Kindell et al., teaches in Figures 1-11 and respective portions of the specification of a teach of a method for attaching a lanyard (61) attached to a bungee cord (Figure 1; Col. 3, lines 49-50 disclose element 28 can be a bungee cord) placed within a shaft (22) to retain a fastener located at the distal end of the shaft. It would have been obvious to one having ordinary skill in the art at the time of invention to provide a lanyard within the

axle of Darling, III and attached to the pin (36). One would be motivated to provide a lanyard attached to the pin to secure the pin to prevent the pin from being misplaced.

Allowable Subject Matter

8. Claims 3-5, 7, 9 and 12-13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. Claims 16 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: the primary reason for the indication of allowable subject matter in this case is:

for Claims 3-5, 7 and 12-13 the inclusion of a: locking plate for engaging the edges of the foot prop to position the foot prop, a spring attached to the wheel support and foot prop to apply tension to bias the foot prop towards and upward position for a stretcher carrier;

for Claim 9 the inclusion of a: plurality of stretcher clamps with a threaded knob and a threaded, hooked arm for engaging an arm of the stretcher to secure an arm of the stretcher to the stretcher carrier;

for claims 16 and 22 the inclusion of a: retaining pin to fix a wheel relative to an axle, where the retaining pin is connected to a lanyard, connected to an elastic material placed within the axle of a carrier for a stretcher, the retaining pins are sized to fit

partially and biased within the ends of the axle by the elastic material when the retaining pin is removed from a retaining pin hole;

in combination with the other elements recited not found in the prior art of record.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 4,037,871 issued to Bourgraf et al. teaches of a stretcher with a removable top.

U.S. Patent No. 4,192,541 issued to Ferneau teaches of a cart with a lower frame whose wheels can be extended and retracted.

U.S. Patent No. 5,572,756 issued to Muuranen et al. teach of an ambulance stretcher for transporting patients.

U.S. Patent No. 6,681,424 issued to Bourgraf et al. teach of another stretcher.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Swenson whose telephone number is (571) 272-6699. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BSH 4/28/03

bls

Brian Swenson
Examiner
Art Unit 3618



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